

# **N.M. SUPREME COURT** *Before the Disciplinary Board of the Supreme Court*

In the Matter of ANNA L. JUAREZ  
An Attorney Licensed to Practice Law  
in the Courts of the State of New Mexico

Disciplinary No. 04-99-371

## **FORMAL REPRIMAND**

The issuance of this Formal Reprimand is singularly unfortunate as it results not only from your original misconduct, but also your failure to avail yourself of the opportunity to successfully complete a probationary period and receive an informal admonition in lieu of this Formal Reprimand. The charges in this matter arose from your neglect of three clients and your failures to respond to inquiries from the Office of Disciplinary Counsel.

In July of 1994, you were retained by Louis Sanchez to handle the probate of the estate of his deceased mother, Rosenda Sanchez. Mr. Sanchez paid you a retainer of \$500 and you subsequently billed him an additional \$150, which he paid. In September of 1998, Mr. Sanchez began to have concerns that you were not taking action and he requested that any documents pertaining to the estate be returned to him. You failed to reply in any way to Mr. Sanchez' written and telephone requests so he filed a complaint with the office of disciplinary counsel on October 16, 1998.

You drafted and executed a will for Petra Maese, who died on March 19, 1997. Ms. Maese's daughter, Eloisa M. Duran, contacted you shortly after her mother's death to handle the probate of the estate. On January 26, 1998, Ms. Duran paid you \$300 as a publication fee, although to Ms. Duran's knowledge no publication occurred. You then subsequently requested and were paid an additional \$221.59 for purposes unknown to Ms. Duran. During the two (2) years following her mother's death, Ms. Duran was unable to obtain any information from you regarding the sta-

tus of the probate. You did not return Ms. Duran's calls and she was never even advised as to whether a probate was opened. On February 12, 1999, Ms. Duran filed a complaint against you with the office of disciplinary counsel.

In September 1998, Yvonne Regalado retained you to represent her interests in a child custody matter, paying a total of \$2090.00. You told Ms. Regalado that a pleading would be filed on October 7, 1998, and that her daughter's father would have thirty days within which to respond. On November 7, 1998, Ms. Regalado called you to determine whether any response to the pleading had been filed. Only after Ms. Regalado had left two or three messages for you did you call, but you did not address Ms. Regalado's question as to whether the pleading had been filed. Ms. Regalado again left several messages for you, to no avail. Finally, on November 24, 1998, Ms. Regalado went and waited at your office and it was at that time you told your client that the father of her child had not yet been served with the pleading, but that you would try to locate a new process server. This was the last time Ms. Regalado ever saw or spoke with you despite many efforts at contact. On January 29, 1999, Ms. Regalado wrote you requesting an accounting of time spent on her case and a refund of any unearned fees and when you failed to respond Ms. Regalado filed a complaint with the office of disciplinary counsel.

You never responded to any of the three complaints with the exception of one cursory and essentially non-responsive facsimile. Your lack of response was blatant due to the fact that the Office of Disciplinary Counsel had contacted you no less than eleven (11) times in an attempt to obtain a response. Formal disciplinary charges were filed against you in these matters and a *Conditional Agreement Not to Contest the Allegations and Consent to Discipline* was entered into by yourself and the Office of Disciplinary Counsel on June 30, 1999. The consent agreement provided that you would receive a formal reprimand, but

that the issuance of the formal reprimand would be deferred and you would be placed on a one (1) year probation with certain conditions. If you successfully completed your probation you were to be issued an informal admonition in lieu of the formal reprimand. You failed to meet the following terms of your probation:

a. That Respondent will observe all Rules of Professional Conduct and Rules Governing Discipline during the period of probation;

b. That Respondent will submit a report of a therapist, psychologist or psychiatrist approved by the Office of Disciplinary Counsel within sixty (60) days of this consent being approved by the disciplinary board stating that Respondent is fit and competent to practice law; and

c. That Respondent will return Louis G. Sanchez' file on or before August 1, 1999.

Your lack of responsiveness to this office and your clients is disturbing at best and indicative of a larger problem at worst. Plain and simply, it is not acceptable to merely ignore the Disciplinary Board and more importantly, your clients. Such disregard shows a lack of respect for the individuals involved and the legal system as a whole. As a professional, a lawyer is expected to do all within his or her power to insure that justice is administered fairly and timely. Your failures to cooperate and communicate thwart the very basis of justice. It is sincerely hoped that the issuance of this formal reprimand will serve as a "wake-up call" to your legal practice. You may be assured that any future display of such contempt of the legal system will not be addressed in such a lenient manner.

By your conduct you have:

a. Failed to act with reasonable diligence and promptness in representing a client in violation of Rule 16-103 of the Rules of Professional Conduct;

b. Failed to keep a client reasonably informed about the status of a matter and promptly respond to reasonable

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requests for information in violation of Rule 16-104(A) of the Rules of Professional Conduct;

c. Charged an unreasonable fee in violation of Rule 16-105(A) of the Rules of Professional Conduct;

d. Failed to take reasonable steps to protect the client's interests upon termination of employment, such as surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned in violation of Rule 16-116(D) of the Rules of Professional Conduct;

e. Failed to make reasonable efforts to expedite litigation in violation of Rule 16-302 of the Rules of Professional Conduct;

f. Knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 16-801(B) of the Rules of Professional Conduct

g. Failed to give her full cooperation and assistance to disciplinary counsel in discharging their functions and duties in violation of Rule 16-803(D) of the Rules of Professional Conduct;

h. Engaged in conduct prejudicial to the administration of justice in violation of Rule 16-804(D) of the Rules of Professional Conduct; and

i. Engaged in conduct adversely reflecting on her fitness to practice law in violation of Rule 16-804(H) of the Rules of Professional Conduct.

This Formal Reprimand will be filed with the New Mexico Supreme Court in accordance with Rule 17-206(D) NMRA 2000, and will remain part of your permanent records with the Disciplinary Board, where it may be revealed upon any inquiry to the Disciplinary Board concerning any discipline ever imposed against you. In addition, in accordance with Rule 17-206(D) NMRA 2000, the entire text of this reprimand will be published in the State Bar of New Mexico *Bar Bulletin*.

DATED: April 28, 2000

The Disciplinary Board,  
Elizabeth Whitefield,  
Vice-Chair

## Before the Disciplinary Board of the Supreme Court

In the Matter of WILLIAM C. FLEMING, ESQUIRE  
Disciplinary No. 10-99-377

An Attorney Licensed to Practice Before the Courts of the State of New Mexico

### FORMAL REPRIMAND

You are before the Disciplinary Board due to your dilatory conduct in a domestic relations matter and your failure to answer disciplinary counsel's requests for a response to a complaint that your client filed against you because of that dilatory conduct. Formal disciplinary proceedings were instituted against you based on your client's complaint, and the Disciplinary Board has determined that a formal reprimand coupled with a period of supervised probation is the appropriate sanction.

The Board finds that you were responsible for several delays in completing a divorce for your client. These delays were compounded by a failure to communicate promptly with your client. The problems began when the court granted a continuance at your request. Your client did not discover that a continuance had been granted until she appeared in the courtroom to attend the hearing. After the hearing eventually was completed, your client attempted to contact you numerous times to see if the final divorce papers were ready, but you did not respond until several months later. In your response, you stated that additional paperwork was needed to secure payments due from your client's former spouse. After waiting another month for you to prepare this additional paperwork, your client discharged you and hired another attorney.

Your conduct in this domestic relations matter violated Rules 16-103 and 16-302 NMRA 2000 because you failed to act with reasonable diligence and promptness in representing a client and failed to make reasonable efforts to ex-

pedite litigation consistent with the interests of the client. In addition, you violated Rule 16-104(A) NMRA 2000 by failing to keep a client reasonably informed about the status of a matter and by failing to promptly comply with reasonable requests for information.

The Board also finds that you failed to respond to repeated inquiries from disciplinary counsel concerning the complaint that arose from the domestic relations matter. Disciplinary counsel wrote to you and requested a response to your client's complaint on May 11, 1999, on June 2, 1999, on June 24, 1999, and on July 7, 1999. All of these letters were sent to you at the address shown on the latest registration statement on file with the Supreme Court in accordance with Rule 17-202(F) NMRA 2000. Nevertheless, you did not respond to any of them. Consequently, you were served with formal charges of professional misconduct on October 14, 1999.

Your failure to respond to disciplinary counsel's inquiries violated Rules 16-801(B) and 16-803(D) NMRA 2000. These rules require a lawyer to respond to lawful demands for information from a disciplinary authority and to give full cooperation and assistance to disciplinary counsel in discharging his functions and duties with respect to discipline and disciplinary procedures. Rule 16-803(D) has been interpreted by the New Mexico Supreme Court as embodying "the obligation to respond to disciplinary counsel's request for a response to a complaint and the duty to provide additional information to disciplinary counsel, if asked to do so." *In re Schmidt*, 1996-NMSC-019, ¶ 7, 121 N.M. 640, 916 P.2d 840. The Court also has concluded that "[f]ailure to participate in the disciplinary process, in effect, constitutes abandonment of the privilege a lawyer has been granted to practice law in New Mexico." *Id.* ¶ 8.

Accordingly, your failure to respond to disciplinary counsel's inquiries amounted to conduct prejudicial to the administration of justice in violation of

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